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RECENT DECISIONS

COMMERCE—MIGRATORY BIRDS.—Migratory birds were declared to be under the protection of the federal government by an act of Congress. The act authorized the Department of Agriculture to make regulations for their protection. The defendant was indicted for violation of one of the regulations. *Held*, the act is unconstitutional. *U. S.* v. *Shauver*, 214 Fed. 154.

It is a well-established rule of law in the American courts that game is the property of the States in their sovereign capacity as the representatives of the people and is held for the benefit of all in common. *Geer* v. *Connecticut*, 161 U. S. 519. Migratory birds repeatedly pass from the jurisdiction of one State to that of another. As each State may enact such game laws as it may deem proper these laws are not likely to be uniform throughout the various States, and it seems clear that migratory game can only be preserved by national legislation. But the statute in the principal case has exceeded the powers of Congress, as there is no provision in the Constitution either expressly or impliedly giving Congress power to protect game. The most tenable ground for upholding this act is that it is authorized by the commerce clause of the Constitution. But obviously, the subject matter of commerce must be capable of human control. Thus, it has been held that the floating of logs upon the surface of a stream, uncontrolled in their movement, is not commerce. *Harrigan* v. *Conn. R. L. Co.*, 129 Mass. 580, 37 Am. Rep. 387. *A fortiori*, the movements of migratory birds which are in no wise effected by human agency is not commerce. Nor can the act be upheld on the ground that it is an exercise of police power by the federal government for the United States possesses no police power as to property belonging to a State. *Patterson* v. *Kentucky*, 97 U. S. 501. It seems clear that the purpose of this statute is wise, but it can be obtained only by constitutional amendment.

COMMON CARRIERS—AGENTS—EFFECT OF MISREPRESENTATION OF LAW.— A ticket agent sold to the plaintiff a mileage book, representing that it would be good between certain points. The representation was false and the plaintiff suffered thereby. *Held*, the railroad is liable. *Driggs* v. *Southern R. Co.* (S. C.), 81 S. E. 431.

By the overwhelming weight of authority, a passenger has the right to rely upon the representations of a ticket agent as to the effect of the ticket sold, and the carrier is liable for any misrepresentation resulting in damage to the passenger. *Smith* v. *Southern R. Co.*, 88 S. C. 421, 70 S. E. 1057, 34 L. R. A. (N. S.) 708; *Hayes* v. *Wabash, etc., Ry. Co.*, 163 Mich. 174, 128 N. W. 217, 31 L. R. A. (N. S.) 229. It has been suggested that as the tariff under which mileage is sold is filed with the Interstate Commerce Commission, it becomes a matter of law and there can be no misrepresentation in regard to it, based on the as-